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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,051	03/16/2006	Christopher John Burke	12838/3	1727

7590
Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

02/28/2008

EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT

PAPER NUMBER

3673

MAIL DATE

DELIVERY MODE

02/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,051

Applicant(s)

BURKE ET AL.

Examiner

Gary Estremsky

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,219,196 to Luker.

Luker '196 teaches Applicant's claim limitations for a latching strike assembly including : a "body" – 9, a "latching strike" – 10, a "bistable detent" – noting that detent 307 of the elected invention is a pin that is spring-biased to one position but may be held in that one position or an opposite position by a solenoid it is examiner's position that pins 19, 20, 21 of the prior art read on limitation inasmuch as they are biased to one position but may be stably held in an opposite position by "solenoid" – 26. It is examiner's position that voltage applied to the solenoid is a first signal, and lack of voltage applied is inherently a second signal.

3. Claims 8-14 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,568,726 to Caspi.
4. Caspi '726 teaches Applicant's limitations including : a "body" - 64, a "latching strike" – including 44,46,66, a "bi-stable detent" – pin 53, a "solenoid" – balance of 52.
5. As regards claim 9, part 66 of the prior art latching strike anticipates broad limitation for "arm".

Allowable Subject Matter

6. The indicated allowability of certain claims is withdrawn in view of the newly discovered reference(s).

Response to Arguments

7. Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that the "detent" is bi-stable but contrary thereto, the disclosure of structure corresponding to the preferred embodiment of the invention, and covered by the claims, is biased towards one position by a spring, making it "mono-stable" by Applicant's own arguments. Though the disclosed detent is capable of being held in either of its two positions, it's by virtue of a bi-stable solenoid and not the structure of the disclosed detent, covered by the limitation. In that respect, the prior art detent is just as capable of being held in either of two positions as the claimed detent. It seems clear from the disclosure

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that the claimed detent does not provide the bi-stable function though it's capable of being stably (and forcibly) held in either of two positions. It's further noted that the claimed invention does not require a bi-stable solenoid, the claim being broader in that respect, and anticipated by the prior art which also has a solenoid. Argument that prior art is only stable in one of the positions under power is more specific than the claimed invention, which hasn't defined particular structure corresponding to such specific function.

8. Regardless, since the new grounds of rejection was not necessitated by the amendment, this Office action is NOT made Final.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on T,W,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gary Estremsky
Primary Examiner
Art Unit 3673

/Gary Estremsky/
Primary Examiner, Art Unit 3673